

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Douglas W. Kohrs et al.
Serial No.: 10/807,463
Filed: March 23, 2004
Group Art Unit: 3738
Confirmation No.: 2914
Examiner: Gherbi, Suzette Jaime J.
Title: **LORDOTIC SPINAL IMPLANT**
Atty Docket No. ZMS-IF44US

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**TERMINAL DISCLAIMER TO OBVIATE A NONSTATUTORY
DOUBLE PATENTING REJECTION (37 CFR 1.321(c))**

1. I, David H. Brinkman, the attorney of record for this invention, submit this disclaimer and certificate on behalf of the assignee, Zimmer Spine, Inc., a Corporation of Delaware having its principal place of business at 7375 Bush Lake Road, Minneapolis, MN 55439, the Disclaimant herein.

2. I hereby certify that Zimmer Spine, Inc. is the assignee of the entire right, title and interest in the patent application identified above by virtue of the following:

a) the above-identified application is a continuation of U.S. Application Serial No. 10/273,706, now U.S. Patent No. 6,740,091, which is a continuation of U.S. Application Serial No. 09/686,922, now abandoned, which is a continuation of U.S. Application Serial No. 09/036,165, now U.S. Patent No. 6,165,219, which is a continuation-in-part of 08/812,791, now abandoned;

b) the assignment from the inventors of patent application Serial No. 09/036,165, now U.S. Patent No. 6,165,219, from which the present patent application thus claims priority, to Sulzer Spine-Tech Inc. recorded on August 6, 1998 at Reel 9373, Frame 0515, a copy of which was submitted to the Office and a further copy of which is attached hereto as Exhibit A; and

c) the September 2002 change of name of Sulzer Spine-Tech Inc. to Centerpulse Spine-Tech Inc. recorded with the Delaware Secretary of State, a copy of which was submitted to the Office for recordation and a further copy of which is attached hereto as Exhibit B; and

d) the April 2004 change of name of Centerpulse Spine-Tech Inc. to Zimmer Spine, Inc. recorded with the Delaware Secretary of State, a copy of which was submitted to the Office for recordation and a further copy of which is attached hereto as Exhibit C.

I further certify that I have reviewed all the documents in the chain of title of the patent application identified above and, to the best of my knowledge and belief, title is in the assignee identified above.

3. I am empowered to act on behalf of the assignee as identified below.

Disclaimer

4. Disclaimant, Zimmer Spine, Inc. hereby disclaims the terminal portion of the term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term of United States Patent Nos. 6,165,219 and 6,740,091. Disclaimant, Zimmer Spine, Inc., hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period

that the legal title to said patent shall be the same as the legal title to United States Patent Nos. 6,165,219 and 6,740,091, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantor, its successors or assigns.

5. Disclaimant, Zimmer Spine, Inc., does not, by this disclaimer, disclaim any part of the term of any patent granted on the above-identified application prior to the expiration date of the full statutory term of United States Patent Nos. 6,165,219 and 6,740,091 in the event that later such patent expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims canceled by a reexamination certificate, or is otherwise terminated in whole or in part, prior to expiration of its full statutory term, except for through separation of legal title as stated above.

6. I hereby declare that the statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Fee Status and Payment

7. Disclaimant is a large entity. Upon acceptance of this disclaimer, please see the electronic fee calculation sheet for the \$130.00 disclaimer fee. Charge any fee deficiency to Deposit Account No. 23-3000.

Respectfully submitted,

Wood, Herron & Evans, L.L.P.

/David H. Brinkman/

David H. Brinkman, Reg. No. 40,532

2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202-2917
(513) 241-2324



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

NOVEMBER 03, 1998

PTAS

MERCHANT, GOULD, SMITH ET AL
JAMES R. CHIAPETTA
3100 NORWEST CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-4131



100791394A

UNITED STATES PATENT AND TRADEMARK OFFICE
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RECORDATION DATE: 08/06/1998

REEL/FRAME: 9373/0515
NUMBER OF PAGES: 4

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

KOHRS, DOUGLAS W.

DOC DATE: 07/14/1998

ASSIGNOR:

SAND, PAUL M.

DOC DATE: 07/15/1998

ASSIGNEE:

SULZER SPINE-TECH INC.
7375 BUSH LAKE ROAD
MINNEAPOLIS, MINNESOTA 55439-2029

SERIAL NUMBER: 09036165

FILING DATE: 03/06/1998

PATENT NUMBER:

ISSUE DATE:

LAWAN FLETCHER, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

EXHIBIT

A

08-13-1998

D \$

FORM PTO-1595

(Rev. 6-93)

OMB No. 0651-0011 (exp. 4-94)

M&G-6683.22US11



100791394

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

To the Commissioner of Patents and Trademarks. Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Douglas W. Kohrs
Paul M. Sand

2. Name and address of receiving party(ies):

Sulzer Spine-Tech Inc.
7375 Bush Lake Road
Minneapolis, MN 55439-2029Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ NoAdditional name(s) & address(es) attached? ☐ Yes ☒ No

Nature of conveyance:

- ☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Other:

Execution Date: July 14, 1998 and July 15, 1998

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)

B. Patent No.(s)

09/036,165

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: James R. Chiapetta
Address: Merchant, Gould, Smith, Edell,
Welter & Schmidt
3100 Northwest Center
90 South Seventh Street
Minneapolis, MN 55402-4131

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41): \$40.00

- ☒ Enclosed
☐ Authorized to be charged to deposit account

8. Please charge any additional fees or credit any overpayments to our Deposit account number: 13-2725

DO NOT USE THIS SPACE

9. Statement and signature:

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

James R. Chiapetta

Name of Person Signing

Signature

August 3, 1998

Date

Total number of pages including cover sheet, attachments, and document 4

Do not detach this portion

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents and Trademarks
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Washington, D.C. 20231

Public burden reporting for this sample cover sheet is estimated to average about 30 minutes per document to be recorded, including time for reviewing the document and gathering the data needed, and completing and reviewing the sample cover sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Office of Information Systems, PK2-1000C, Washington, D.C. 20231, and to the Office of Management and Budget, Paperwork Reduction Project (0651-0011), Washington, D.C. 20503.

08/13/1998 JWR/KING 000000 40.00 01 FC:581

ASSIGNMENT

WHEREAS, we, Douglas W. Kohrs, residing at 7432 Hyde Park Drive, Edina, MN 55439 and Paul M. Sand, residing at 1747 North Dale Street, Roseville, MN 55113, made certain new and useful inventions and improvements for which we filed an application for Letters Patent of the United States on March 6, 1998, application Serial No. 09/036,165 which is entitled LORDOTIC SPINAL IMPLANT.

AND WHEREAS, Sulzer Spine-Tech Inc., a corporation organized and existing under and by virtue of the laws of the State of Delaware, and having an office and place of business at 7375 Bush Lake Road, Minneapolis, MN 55439-2029 (hereinafter "Assignee") is desirous of acquiring the entire right, title and interest in and to said inventions, improvements and application and in and to the Letters Patent to be obtained therefor;

NOW THEREFORE, to all whom it may concern, be it known that for and in consideration of the sum of One Dollar and other good and valuable considerations, the receipt and sufficiency whereof is hereby acknowledged, we have sold, assigned, and transferred, and by these presents do sell, assign and transfer unto said Assignee, its successors or assigns, the entire right, title and interest for all countries in and to all inventions and improvements disclosed in the aforesaid application, and in and to the application, all divisions, continuations, or renewals thereof, all Letters Patent which may be granted therefrom, and all reissues or extensions of such patents, and in and to any and all applications which have been or shall be filed in any foreign countries for Letters Patent on the inventions and improvements, including an assignment of all rights under the provisions of the International Convention, and all Letters Patent of foreign countries which may be granted therefrom; and we do hereby authorize and request the Commissioner of Patents and Trademarks to issue any and all United States Letters Patent for the aforesaid inventions and improvements to the Assignee as the assignee of the entire right, title and interest in and to the same, for the use of the Assignee, its successors and assigns.

AND, for the consideration aforesaid, we do hereby agree that we and our executors and legal representatives will make, execute and deliver any and all other instruments in writing including any and all further application papers, affidavits, assignments and other documents, and will communicate to said Assignee, its successors and representatives all facts known to us relating to said improvements and the history thereof and will testify in all legal proceedings and generally do all things which may be

necessary or desirable more effectually to secure to and vest in said Assignee, its successors or assigns the entire right, title and interest in and to the improvements, inventions, applications, Letters Patent, rights, titles, benefits, privileges and advantages hereby sold, assigned and conveyed, or intended so to be.

AND, furthermore we covenant and agree with said Assignee, its successors and assigns, that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been made to others by us and that full right to convey the same as herein expressed is possessed by us.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 15 day of

July, 1998.

Douglas W. Kohrs
Douglas W. Kohrs

STATE OF Minnesota)
) ss.
COUNTY OF Hennepin)

On this 15 day of July, 1998 before me personally appeared Douglas W. Kohrs to me known and known to me to be the person described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same for the uses and purposes therein set forth.

[SEAL]



Camille A. Christianson
Notary Public

IN TESTIMONY WHEREOF, I have hereunto set my hand this 14 day of July, 1998.

Paul M. Sand

Paul M. Sand

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

On this 14 day of July, 1998, before me personally appeared Paul M. Sand to me known and known to me to be the person described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same for the uses and purposes therein set forth.



William Hansen

Notary Public



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231



500027622A

APRIL 18, 2005

PTAS

TONG WU
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

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RECORDATION DATE: 04/16/2005

REEL/FRAME: 015909/0375
NUMBER OF PAGES: 2

BRIEF: CHANGE OF NAME (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

SULZER SPINE-TECH, INC.

DOC DATE: 09/30/2002

ASSIGNEE:

CENTERPULSE SPINE-TECH, INC.
7375 BUSH LAKE ROAD
MINNEAPOLIS, MINNESOTA 55439-2029

SERIAL NUMBER: 10807463

FILING DATE: 03/23/2004

PATENT NUMBER:

ISSUE DATE:

TITLE: LORDOTIC SPINAL IMPLANT

EXHIBIT

B

015909/0375 PAGE 2

ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

PATENT ASSIGNMENT

Electronic Version v1.1
Stylesheet Version v1.1

04/16/2005
500027622

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	CHANGE OF NAME
CONVEYING PARTY DATA	
Name	Execution Date
Sulzer Spine-Tech, Inc.	09/30/2002
RECEIVING PARTY DATA	
Name:	Centerpulse Spine-Tech, Inc.
Street Address:	7375 Bush Lake Road
City:	Minneapolis
State/Country:	MINNESOTA
Postal Code:	55439-2029
PROPERTY NUMBERS Total: 1	
Property Type	Number
Application Number:	10807463
CORRESPONDENCE DATA	
Fax Number:	(612)766-1600
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	612/766-7000
Email:	eralten@faegre.com
Correspondent Name:	Tong Wu
Address Line 1:	2200 Wells Fargo Center
Address Line 2:	90 South Seventh Street
Address Line 4:	Minneapolis, MINNESOTA 55402-3901
NAME OF SUBMITTER:	Tong Wu
Total Attachments: 1 source=Sulzer Cert of Amend#page1.tif	

OP \$40.00 10807463

**CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF
SULZER SPINE-TECH INC.**

Sulzer Spine-Tech Inc., a corporation duly organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"),

DOES HEREBY CERTIFY:

FIRST: That the Sole Director of the Corporation, by written consent, adopt a resolution proposing and declaring advisable the following amendment to the Certificate of Incorporation of the Corporation:


RESOLVED, that the Certificate of Incorporation of Sulzer Spine-Tech Inc. be amended by changing Article I thereof so that, as amended, said Article I shall be and read as follows:

"The name of the corporation is Centerpulse Spine-Tech Inc. (hereinafter referred to as the "Corporation")."

SECOND: That the sole shareholder, by written consent, has given consent to said amendment in accordance with the provisions of Section 228 of the General Corporation Law of the State of Delaware.

THIRD: That the aforesaid amendment was duly adopted in accordance with the applicable provisions of Sections 242 and 228 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, Sulzer Dental Inc. has caused this Certificate to be executed by David S. Wise, its authorized officer, on this 30th day of September, 2002.



David S. Wise, Secretary



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231



500028601A

APRIL 22, 2005

PTAS

TONG WU
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

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RECORDATION DATE: 04/22/2005

REEL/FRAME: 015933/0353
NUMBER OF PAGES: 3

BRIEF: CHANGE OF NAME (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

CENTERPULSE SPINE-TECH, INC.

DOC DATE: 04/28/2004

ASSIGNEE:

ZIMMER SPINE, INC.
7375 BUSH LAKE ROAD
MINNEAPOLIS, MINNESOTA 55439-2029

SERIAL NUMBER: 10807463

FILING DATE: 03/23/2004

PATENT NUMBER:

ISSUE DATE:

TITLE: LORDOTIC SPINAL IMPLANT

ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

EXHIBIT

C

PATENT ASSIGNMENT

Electronic Version v1.1
Stylesheet Version v1.1

04/22/2005
500028601

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	CHANGE OF NAME
EFFECTIVE DATE:	04/28/2004
CONVEYING PARTY DATA	
Name	Execution Date
Centerpulse Spine-Tech, Inc.	04/28/2004
RECEIVING PARTY DATA	
Name:	Zimmer Spine, Inc.
Street Address:	7375 Bush Lake Road
City:	Minneapolis
State/Country:	MINNESOTA
Postal Code:	55439-2029
PROPERTY NUMBERS Total: 1	
Property Type	Number
Application Number:	10807463
CORRESPONDENCE DATA	
Fax Number: (612)766-1600	
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	612/766-7000
Email:	eralten@faegre.com
Correspondent Name:	Tong Wu
Address Line 1:	2200 Wells Fargo Center
Address Line 2:	90 South Seventh Street
Address Line 4:	Minneapolis, MINNESOTA 55402-3901
NAME OF SUBMITTER:	Tong Wu
Total Attachments: 2	
source=Zimmer Change of Name#page1.tif	
source=Zimmer Change of Name#page2.tif	

OP \$40.00 10807463

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT THE SAID "CENTERPULSE SPINE-TECH INC.", FILED A CERTIFICATE OF AMENDMENT, CHANGING ITS NAME TO "ZIMMER SPINE, INC.", THE TWENTY-NINTH DAY OF APRIL, A.D. 2004, AT 11:30 O'CLOCK A.M.



2870689 8320

040412023

Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 3148571

DATE: 06-03-04

**CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF
CENTERPULSE SPINE-TECH INC.**

Centerpulse Spine-Tech Inc., a corporation duly organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"),

DOES HEREBY CERTIFY:

FIRST: That the Board of Directors of the Corporation, by unanimous written consent, has adopted a resolution proposing and declaring advisable the following amendment to the Certificate of Incorporation of the Corporation:

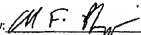
RESOLVED, that the Certificate of Incorporation of Centerpulse Spine-Tech Inc. be amended by changing Article I thereof so that, as amended, said Article I shall be and read as follows:

"The name of the corporation is Zimmer Spine, Inc. (hereinafter referred to as the "Corporation")."

SECOND: That the sole shareholder of the Corporation, by written consent, has given consent to said amendment in accordance with the provisions of Section 228 of the General Corporation Law of the State of Delaware.

THIRD: That the aforesaid amendment was duly adopted in accordance with the applicable provisions of Sections 242 and 228 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, Centerpulse Spine-Tech Inc. has caused this Certificate to be executed by Chad F. Phipps, its authorized officer, on this 28th day of April, 2004.

By: 
Chad F. Phipps
Assistant Secretary